

convicted of Medicare/Medicaid fraud and has lost his status as a Medicare/Medicaid provider.

Against that background, I conclude that the interim application adequately documents the time reasonably devoted to Debtor's case by his counsel except services rendered on May 27, 1988, June 2, 1988, June 6, 1988, June 8, 1988, September 23, 1988 and October 7, 1988, totalling 5.3 hours, and that the hourly rate sought of \$100.00 is reasonable. Thus, the "lodestar" amount of the allowable interim fee is established at \$10,310.00 (\$103.10 net hours X \$100 per hour).

After determining the lodestar amount, however, it is necessary to adjust the lodestar based upon the results obtained. Norman v. Housing Authority of the City of Montgomery, 836 F.2d 1292 (11th Cir. 1988). Only if the result is "excellent" should the full lodestar be awarded. If the result is partial or limited success the fee must be reduced to an amount which is not "excessive". Id. at 1302.

Clearly the results in this case are not "excellent". The case has been pending for over three years. No plan has been confirmed. Counsel's efforts to block the termination of Debtor's provider status were unsuccessful. The only result obtained through that litigation was delay. The

delay of many months before that termination occurred is argued by counsel to have benefited the estate since the longer Debtor stayed in business the more likely he was to generate funds to pay his creditors. Unfortunately, due to Debtor's questionable use of the working capital funds which this Court allowed him to retain, it appears that administrative expense claims which he could and should have paid on a current basis may have accrued to the extent that unsecured creditors will not realize any economic benefit as a result of the litigation delay.

This Court has previously approved fee requests in excess of \$30,000.00 in this case and from the amended application it appears that counsel has been paid nearly \$34,000.00 in fees and expenses. In that context, and because it now appears highly uncertain whether any significant dividend will be paid to creditors, I conclude that the lodestar amount should be reduced by a factor of 75%. Interim fees are therefore allowed in the amount of \$2,575.00 and expenses in the amount of \$351.54.

The additional request for interim payment is denied. The balance due, if any, should be paid at the time and in the same proportion as all other allowed administrative claims are paid.

All parties are advised that if the results obtained in this case improve over what is now anticipated, the Court reserves the right to reassess this interim and any final application accordingly.



Lamar W. Davis, Jr.
United States Bankruptcy Judge

Dated at Savannah, Georgia

This 12th day of March, 1989.

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